**IN THE HIGH COURT OF HIMACHAL PRADESH**
**SHIMLA**

**Civil Writ Petition No.750 of 2004**
**with**
**CWP Nos. 744 to 749, 751 to 755, 766, 767, 768, 769, 771, 772, 773 of 2004, 18, 22, 23, 25 to 28, 283 to 290, 29 to 32, 330, 357 of 2005 and 364,558/2006 & 756 of 2004**

**Judgment reserved on: 12.12.2006**
**Date of decision: 18.12.2006**

---

For title please see over leaf.

---

*Coram*

**The Hon'ble Mr.Justice Dev Darshan Sud,J.**

*Whether approved for reporting ?*[1]

**For the Petitioner: (please see over leaf)**

**For the Respondents:**

---

**Dev Darshan Sud, J.**

All these writ petitions are being disposed of by a common judgment as the point for determination is the same.

The undisputed facts are that the petitioners constructed towers and laid over-head electric lines from Slappar to Bhawani for the Dehar Electric Project. While executing this work, a number of trees and fruits etc. of various species belonging to different persons were damaged. The authorities had the damage/compensation assessed from the District Horticulture Officer, Bilaspur, which was approved by

---

[1] ***Whether the reporters of Local Papers may be allowed to see the judgement*?**

**CWP 750 of 2004**
Union of India and Anr. Vs. Savitri Devi

**CWP No.744 of 2004**
Union of India and Anr. Vs. Dhani Ram and others

**CWP No.745 of 2004**
Union of India and Anr. Vs. Daulat Ram and others

**CWP No.746 of 2004**
Union of India and Anr. Vs. Sant Ram and Another

**CWP No.747 of 2004**
Union of India and Anr. Vs. Hariman and Another

**CWP No.748 of 2004**
Union of India and ors Vs Prem Lal and Another

**CWP No.749 of 2004**
Union of India and Anr. Vs. Nikka Ram and others

**CWP No.751 of 2004**
Union of India and ors Vs. Bardu and another

**CWP No.752 of 2004**
Union of India and ors Vs Smt. Bohari Devi & Anr

**CWP No.753 of 2004**
Union of India and ors Vs Piare Lal and another

**CWP No.754 of 2004**
Union of India and ors Vs Jaindu Ram and another

**CWP No.755 of 2004**
Union of India and Anr. Vs. Anil Kumar and others

**CWP No.766 of 2004**
Union of India and Anr. Vs Pyare Lal and others

**CWP No.767 of 2004**
Union of India and ors. Vs. Bali Ram and another

**CWP No.768 of 2004**
Union of India and ors Vs. Bhagat Ram and another

**CWP No.769 of 2004**
Union of India and ors. Vs. Netra Sharam and ors.

**CWP No.771 of 2004**
Union of India and ors. Vs. Sukh Ram and another

**CWP No.772 of 2004**
Union of India and ors Vs Bhuri Devi and others

**CWP No.773 of 2004**
Union of India and ors Vs. Jagan Nath and others

**CWP No.18 of 2005**
Union of India and ors. Vs. Sukh Ram and another

**CWP No.22 of 2005**
Union of India and ors. Vs. Daulat Ram and ors.

**CWP No.23 of 2005**
Union of India and ors. Vs. Lachman and another

**CWP No.25 of 2005**
Union of India and ors. Vs. Jagdish and another

**CWP No.26 of 2005**
Union of India and ors. Vs. Shanker and another

**CWP No.27 of 2005**
Union of India and ors. Vs. Shyam Lal and another

**CWP No.28 of 2005**
Union of India and ors. Vs. Paras Ram and another

**CWP No.29 of 2005**
Union of India and ors. Vs. Nirender and another

**CWP No.30 of 2005**
Union of India and ors. Vs. Devi Ram and another

**CWP No.31 of 2005**
Union of India and ors. Vs. Jagdish and another

**CWP No.32 of 2005**
Union of India and ors. Vs. Sita Ram and another

**CWP No.283 of 2005**
Union of India and ors. Vs. Rulia Ram and another

**CWP No.284 of 2005**
Union of India and ors. Vs. Rajinder Kumar and Anr.

**CWP No.285 of 2005**
Union of India and ors. Vs. Ghambru and another

**CWP No.286 of 2005**
Union of India and ors. Vs. Surinder Kumar and Anr.

**CWP No.287 of 2005**
Union of India and ors. Vs. Roshan Lal and another

**CWP No.288 of 2005**
Union of India and ors. Vs. Chint Ram and another

**CWP No.289 of 2005**
Union of India and ors. Vs. Daulat Ram and another

**CWP No.290 of 2005**
Union of India and ors. Vs. Kishori Lal and another

**CWP No.330 of 2005**
Union of India and ors. Vs. Joginder and another
**CWP No.357 of 2005**
Union of India and ors. Vs. Paras Ram and another
**CWP No.364 of 2006**
Union of India and Anr. Vs. Surender Pal and ors.
**CWP No.558 of 2006**
Union of India and Anr. Vs. Bhag Singh and ors.
**CWP No.756 of 2004**
Union of India Vs. Inderpal and others

**In CWP 750 of 2004 alongwith CWPs 744 to 749, 751 to 755, 766, 767 of 2004**

**For the Petitioner(s):** Mr. Sandeep Sharma, Assistant Solicitor General of India,
**For Private Respondent(s):** Mr. T. S. Chauhan, Advocate.
**For the State of H.P.** Mr.Rajan Dewan, Addl.A.G.

**In CWPs 768, 769, 771, 772 & 773 of 2004.**

**For the Petitioner(s):** Mr. Sandeep Sharma, Assistant Solicitor General of India.
**For the State of H.P.:** Mr. Rajan Dewan, Addl. A. G.

**In CWPs 18, 22, 23, 25 to 28, 29 to 32 of 2005**

**For the Petitioner(s):** Ms. Shilpa Sood, Central Govt. Counsel.
**For the State of H.P.:** Mr. Rajan Dewan, Addl. A. G.

**In CWPs 283 to 290, 330 of 2005.**

**For the Petitioner(s):** Mr. Janesh Mahajan, Central Govt. Counsel.
**For the Respondent(s):** Mr. T. S. Chauhan, Advocate.
**For the State of H.P.** Mr. Rajan Dewan, Addl. A. G.

**CWP 357 of 2005.**

**For the Petitioner(s):** Mr. Janesh Mahajan, Central Govt. Counsel.
**For the State of H.P.:** Mr. Rajan Dewan, Addl. A. G.

**CWPs 756 of 2004 and 364 & 558 of 2006**

**For the Petitioner(s):** Mr. Janesh Mahajan, Central Govt. Counsel.
**For Private Respondent(s):** S/Shri R.K. Gautam, Senior Advocate with Mr. Naveen Bhardwaj and Anurag Sharma, Advocates, and Mr. Vikrant Sankhyan and T.S. Chauhan, Advocates.
**For the State of H.P.:** Mr. Rajan Dewan, Addl. A. G.

the Deputy Commissioner, Bilaspur by his order dated 17.8.1990, who enhanced the compensation by 30% of what had been awarded by the District Horticulture Officer on the ground that such assessment was on the lower side and did not represent just and fair value of the damage caused.

Being aggrieved from this assessment, the claimants instituted petitions under Section 19 read with section 52 of the Electricity Act before the Chief Secretary to the Government of Himachal Pradesh, who vide his order dated 21.8.1991, appointed the Joint secretary (Law) to the Government of Himachal Pradesh as the Arbitrator for assessment of the damage caused. By his order dated 26.3.1992, the Arbitrator remitted the matter to the State Government without answering the reference holding that he had no jurisdiction in the matter and the remedy available to the petitioners was to institute reference petitions under Section 16(3) of the Indian Telegraph Act for determination of the compensation. Thereafter, petitioners filed reference petitions before the District Judge, Bilaspur.

The learned District Judge, Bilaspur made an award dated 29.4.1997, against which Union of India, Beas Construction Board and the Executive Engineer, Dehar Power House etc. preferred writ petitions No.372/97, 373/97, 374/97, 375/97, 376/97, 377/97 and the claimants preferred Civil Revisions Nos. 291/97,

292/97, 293/97, 294/97 and 195/97 against the said award. These writ petitions and the civil revisions were disposed of by this Court by a common judgment dated 31.3.1998 in the following terms:-

> "Accordingly, we hold that ends of justice would be met if the claimants are given compensation five times of the compensation assessed by the Department as per Annexure PB to the writ petitions and Ext.RW1/A on the file of the District Judge. Accordingly, the writ petitions are partly allowed, whereas the revisions petitions are dismissed and the impugned awards dated 29.4.1997 passed by District Judge, Bilaspur are modified. No costs."

Some of the parties had not preferred any revision petition(s) nor they were parties in the writ petitions. Civil Review No. 1 of 1999, was filed by them for recalling the order passed by this Court in the writ petitions and revisions petitions aforesaid. While disposing of the review petition, this Court held as under:-

> "We have heard learned counsel for the review petitioners and gone through the record. We do not find that any ground is made out for reviewing the impugned judgment dated 31.3.1998 passed in CWP No.372 of 1997 and other connected matters. The review petition is dismissed. However, the competent authority for enhancing the compensation

> at the rate awarded by this Court may consider the case of all those claimants who are similarly situated to the claimants before this Court whose fruit trees got damaged due to construction of towers and overhead electric lines from Salappar to Bhawani, for which they were paid compensation by the competent authority but they failed to file reference petitions before the District Judge or file proceedings before this Court. We have made these observations in the interest of justice, equity and good conscience. No costs."

Thereafter, 42 petitions were preferred before the District Judge, Bilaspur (Annexure P-3 to CWP No.750 of 2004). Vide his judgement dated 24.5.2004, the learned District Judge, Bilaspur ordered that all the petitioners were entitled to enhanced compensation amounting to five times of the amount assessed by the Department for the damage to fruit bearing trees. It was further ordered that the amount be assessed by the respondents within four months from the date of the award, failing which they shall be liable to pay interest at the rate of 9% on the amount till actual payment. The relief granted was to the following effect:-

> "In view of my findings on issues No.1 and 2 above being in favour of the petitioners and as against the respondents, all the petitions are allowed. Accordingly, all the petitioners in these cases are entitled

> to enhance compensation amounting to five times of the amount assessed by the Department for the damage to fruit bearing trees. Since the petitions were challenged by the respondents and therefore, the petitioners are also entitled to costs including lawyer's fee assessed at Rs.1100/-. The amount shall be assessed by the respondent within four months from today and paid t the petitioners, failing which, they shall be liable to pay interest at the rate of 9% on the amount after expiry of four months period till payment. The petitions are disposed of accordingly. One attested copy of the judgment be placed in all the consolidated reference petitions. The memo of costs be prepared accordingly. The file be consigned to the record room after due completion".

My attention has also been invited to the judgement dated 16.11.2006, passed by Hon'ble the Chief Justice in CMPMO Nos. 13 and 14 of 2006, instituted on behalf of the petitioners therein claiming interest on the amount awarded by the learned District Judge.

Learned counsel appearing for the petitioners contends that the award passed by the learned District Judge cannot be enforced and is incapable of execution as it does not specify with clarity the amount payable to each of the claimants. It is submitted that the claim of each of the

claimants has not been quantified. Since there were large number of claimants, it was incumbent upon the learned District Judge to have recorded evidence individually in each case and it was the duty of the petitioners to appear in the matter and substantiate their claim with respect to quantity and quantum of damage. It is further submitted that even if damage has been assessed by the Horticulture Department, it was for the petitioners in each case to have stepped into the witness box to state as to what was the exact damage caused to the fruits bearing trees and fruits etc. The award being vague, it was incapable of enforcement and the claim of each of the petitioners before the learned District Judge required to be amended individually.

The contention of the petitioner that the respondents are not entitled to any relief as they were not parties either in the writ petitions or revision petitions, cannot be accepted. The judgments passed by this Court in the writ petitions as also in the review petition, are clear and unequivocal that the claimants as also other persons similarly situated with them are entitled to the compensation which was enhanced to five times of that which has been assessed by the Department in accordance with Annexure-PB to the writ petition (Ex.RW-1/A before the learned District Judge as filed in those proceedings). Further while disposing of Civil Review 10 of 1999,

this Court had ordered that all the persons, who are similarly situated to the claimants before this Court in the writ petitions and revision petitions, whose fruit trees were damaged, were entitled to the same compensation, even though they may have failed to file reference petitions before the District Judge or any proceedings in this Court. The contention of the petitioners that the respondents are not entitled to any compensation is rejected.

However, I do find force in the second submission made by the learned counsel for the petitioners that the claim of each of the petitioners required to be quantified. It was not sufficient for the learned District Judge to have stated that the claimants were entitled to compensation assessed at five times of the amount as assessed by the competent authority. This was stating the obvious as the matter had already been concluded by the judgment of the Division Bench in the Writ Petitions and the Civil Review. The learned District Judge was further required to quantify the claim of each of the petitioners. It was the duty of the claimants, to have supported their individual claims before the learned District Judge, who was exercising powers under Section 16 of the Indian Telegraph Act, 1885. Sub-sections 3 and 4 of Section 16 of the Act read as under:-

> "(3) If any dispute arises concerning the sufficiency of the compensation to

be paid under Section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount,; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it".

According to sub-section (5), of Section 16 every determination of a dispute by a District Judge under the two provisions, as aforesaid, shall be final subject to the proviso. For the purposes of present petitions it is sufficient to notice that there is a statutory duty cast upon the learned District Judge to determine the sufficiency of compensation to be paid under Section 10, clause (d). This determination

would involve a reasoned quantification of the claim. The obvious consequence of the statutory duty imposed has to be discharged according to well settled principles of law including, passing a reasoned award which can stand the scrutiny of a higher Court where the award may be challenged. The award, does not deal with the claim of each of the claimants beyond stating that each of the petitioners before the learned District Judge would be entitled to five times of the compensation as determined by the authorities. The learned District Judge was further required to have determined the claim in each individual case. This is lacking in the award and has created a situation where the petitioner is justified in making grievance that the award becomes incapable of implementation. The petitioners had also moved applications in individual case(s) stating that it was unable to comply with the orders of depositing the money etc. in this Court as ordered since the amount awarded to each individual could not be ascertained. The writ petitions are, therefore, disposed of with the following directions:-

(a) The parties through their learned counsel shall appear before the learned District Judge, Bilaspur on ***19th January, 2007;***

(b) The learned District Judge shall determine the compensation payable to each of the claimants in petition Annexure P-3 with this writ petition within a period of eight weeks

after the parties put in appearance. For determination/entitlement of compensation, the parties shall be given full opportunity to establish their claims;

(c) So far as the question regarding payment of interest is concerned, the directions as issued by this Court in CMPMO Nos. 13 and 14 of 2006 decided on 16.11.2006 would be applicable to the case of the petitioners.

(d) In case of any difficulty, it is open to the parties to approach this Court for any clarification of the order.

All miscellaneous applications in each case shall stand disposed of.

The writ petitions are accordingly disposed of. There shall be no order as to costs.

**December 18, 2006** **(Dev Darshan Sud )**
**(ss/aks)** **Judge.**